



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 9, 2019

James E. Tyrrell III, Esq.
Venable LLP
600 Massachusetts Avenue NW
Washington, DC 20001

Re: ADR 872
McSally for Congress and Paul Kilgore, Treasurer

Dear Mr. Tyrrell:

Enclosed is the signed copy of the Negotiated Settlement resolving the above-shown matter. The Negotiated Settlement was approved by the Commission on July 2, 2019 – the effective date of the agreement.

Note the specific time frames for compliance detailed in the agreement. Please forward to this office, a statement confirming Respondent's compliance with each term. The letter should note the dates on which Respondents satisfied each of the terms and contain the ADR case number. For your convenience, a compliance chart is attached.

Under the terms of the agreement, a civil penalty in the amount of \$23,400.00 is due on August 1, 2019. Kindly review the attached payment instructions for details on payment methods and the collection of unpaid debts.

As you are aware, the Negotiated Settlement will be made part of the record that is released to the public. The Commission will also place on the record copies of the complaint/referral, correspondence exchanged between your office and this office prior to our negotiations, and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Records Office.

This agreement resolves this matter. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

FEDERAL ELECTION COMMISSION – ALTERNATIVE DISPUTE RESOLUTION OFFICE
1050 FIRST STREET, N.E., WASHINGTON, D.C. 20463
TELEPHONE: 202.694.1661
EMAIL: ADR@FEC.GOV

Sincerely,



Krista J. Roche
Director
Alternative Dispute Resolution Office

Enc: Payment Instructions
Compliance Chart
Negotiated Settlement

cc: Gwendolyn Holmes, Finance and Accounting Office



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Case Number: ADR 872
Source: AD 15-04
Case Name: McSally for Congress

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission (Commission) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities concerning activity that occurred during the 2013-14 election cycle. Following review of the matter, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, (FECA) and resolve this matter, the Commission entered into negotiations with James E. Tyrrell III, Esq., representing McSally for Congress and Paul Kilgore, in his official capacity as Treasurer (the Committee or Respondents). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and Respondents addressed the issues raised in this referral. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 52 U.S.C. § 30109.
2. Respondents voluntarily enter into this agreement with the Commission.
3. Audit referred Respondents for two findings detailed in the Final Audit Report approved by the Commission on May 8, 2018. Finding 3 states that the Committee untimely resolved excessive contributions totaling \$319,212. Finding 5 states that the Committee failed to itemize contributions from political committees totaling \$32,750.
4. During the 2013-2014 election cycle, no person shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceeds \$2,600. 52 U.S.C. § 30116(a), 11 C.F.R. § 110.1(b). Political committees must itemize receipts from any political committee, regardless of amount, including contributions from political committees, transfers from party committees, and refunded contributions received from political committees. 52 U.S.C. § 30104(b)(3)(B), (C), and (D).
5. The Committee indicated in its response to the Interim Audit Report ("IAR") that when it realized there were inaccuracies in its reporting—before the Committee was notified of the audit—it hired an FEC compliance specialist to serve as its treasurer in order to ensure accurate recordkeeping and reporting in the future. Likewise, prior to

commencement of audit field work, the Committee hired an FEC compliance specialist to completely rebuild its database from its inception in 2012. This included review of \$12.3 million in activity over the 2012 and 2014 election cycles. As a result of this effort, the Committee filed amendments for all of its FEC reports from January 2012 through December 2014, an undertaking that extended beyond the scope of the audit or the remedial measures ultimately recommended by the Audit Division.

6. Over a year before the Audit Division issued the IAR, and as part of its internal review and amendment process, the Committee amended its reports to disclose a number of contributions from political committees that it inadvertently failed to itemize during the 2014 election cycle. The Committee also produced reattribution and redesignation letters, as well as refunded \$6,800 in excessive contributions. The Committee intends to file a termination report upon the resolution of any outstanding issues with the Commission.
7. Respondents, in an effort to resolve this matter, agree to: (a) pay a civil penalty of \$23,400 within thirty (30) days of the effective date of this agreement and continue to file reports until such time as a termination report is approved.
8. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
9. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
10. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of this agreement as set out in paragraph 7 above, and shall certify compliance with the above settlement terms in writing to the Alternative Dispute Resolution Office on or before the date each term becomes due.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 872 (AD 15-04), and resolves those issues identified in paragraph 3 above. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

Krista J. Roche, Director
Alternative Dispute Resolution Office

Alternative Dispute Resolution Office

Date Signed _____

James E. Tyner III

Date Signed _____

James E Tyrrell III, Esq.
Representing McSally for Congress
and Paul Kilgore, Treasurer